



BK 12

**OBLON**  
**SPIVAK**  
**McCLELLAND**  
**MAIER**  
**&**  
**NEUSTADT**  
**R.C.**

ATTORNEYS AT LAW

Docket No.: 199202US2X PCT

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

RE: Application Serial No.: 09/700,729  
Applicants: Hideki KINUGAWA, et al.  
Filing Date: November 30, 2000  
For: SHOVEL  
Group Art Unit: 3671  
Examiner: PEZZUTO, R.

SIR:

Attached hereto for filing are the following papers:

**PETITION UNDER 37 C.F.R. 1.181(a)(3)**

Our check in the amount of            is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

**COPY**

Norman F. Oblon  
Registration No. 24,618



22850

(703) 413-3000 (phone)  
(703) 413-2220 (fax)

Robert T. Pous  
Registration No. 29,099

199202US-2X PCT



**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

IN RE APPLICATION OF :  
HIDEKI KINUGAWA ET AL : EXAMINER: PEZZUTO, R. E.  
SERIAL NO: 09/700,729 :  
FILED: NOVEMBER 30, 2000 : GROUP ART UNIT: 3671  
FOR: SHOVEL :

**PETITION UNDER 37 C.F.R. §1.181(a)(3)**

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

SIR:

Applicants herein petition the examiner to exercise his supervisory authority to require the examiner to consider and make of record the prior art cited in the International Search Report and the prior art cited in the Information Disclosure Statement filed on July 26, 2002.

The present application was filed under the PCT. The notification of acceptance of application under 35 U.S.C. §371 (PCT Form 903) indicated that a copy of the International Search Report and copies of the references cited therein had been received by the U.S. PTO in its capacity as a designated office under the PCT (see attached PCT Form 903). In this circumstance, the examiner is required to consider the documents cited in the International Search Report (MPEP 609). There is no indication of record that the prior art cited in the International Search Report has in fact been considered by the examiner. Applicants therefore request that the commissioner exercise his supervisory authority to require the examiner to do so.

**COPY**

An Information Disclosure Statement was filed on July 26, 2002, including the elements required by 37 C.F.R. §1.97(d) (see attached). There is no indication of record that the examiner has considered this prior art, and so Applicants request that the commissioner exercise his supervisory authority to require the examiner to consider and make of record the prior art cited in the Information Disclosure Statement.

No fee is believed to be required for the present petition. However, if any fee is in fact required, the commissioner is authorized to withdraw any necessary fee from the undersigned attorney's deposit account no. 15-0030.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

**COPY**

Norman F. Oblon  
Attorney of Record  
Registration No. 24,618  
Robert T. Pous  
Attorney of Record  
Registration No. 29,099



**22850**

(703) 413-3000  
GJM:RTP/cja

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UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: ASSISTANT COMMISSIONER FOR PATENTS  
Washington, D.C. 20231



U.S. APPLICATION NO. 09/700729 FIRST NAMED APPLICANT KINUGAWA H  
ATTY. DOCKET NO. [REDACTED]  
INTERNATIONAL APPLICATION NO. [REDACTED]  
PCT/JP00/02060  
LA. FILING DATE 31 MAR 00 PRIORITY DATE 31 MAR 99  
DATE MAILED: 27 DEC 2000

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT  
FOURTH FLOOR  
1755 JEFFERSON DAVIS HIGHWAY  
ARLINGTON, VA 22202

NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371  
AND 37 CFR 1.494 OR 1.495

1. The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as ☒ a Designated Office (37 CFR 1.494), ☐ an Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

2. The United States Application Number assigned to the application is shown above and the relevant dates are:

30 NOV 00  
35 U.S.C. 102(e) DATE

30 NOV 00  
DATE OF RECEIPT OF  
35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. THE DATE APPEARING ON THE FILING RECEIPT AS THE "FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371(C) REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE. The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363). Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

3. ☒ A request for immediate examination under 35 U.S.C. 371(f) was received on 30 NOV 00 and the application will be examined in turn.

4. The following items have been received:

☒ U.S. Basic National Fee.

☒ Copy of the international application in:

☒ a non-English language.

☐ English.

☒ Translation of the international application into English.

☒ Oath or Declaration of inventor(s) for DO/EQ/US.

☐ Copy of Article 19 amendments. ☐ Translation of Article 19 amendments into English.

The Article 19 amendments ☐ have ☐ have not been entered.

☐ The International Preliminary Examination Report in English and its Annexes, if any.

☐ Copy of the Annexes to the International Preliminary Examination Report (IPER).

☐ Translation of Annexes to the IPER into English.

The Annexes ☐ have ☐ have not been entered.

☒ Preliminary amendment(s) filed 30 NOV 00 and \_\_\_\_\_.

☐ Information Disclosure Statement(s) filed \_\_\_\_\_ and \_\_\_\_\_.

☐ Assignment document.

☐ Power of Attorney and/or Change of Address.

☐ Substitute specification filed \_\_\_\_\_.

☐ Verified Statement Claiming Small Entity Status.

☒ Priority Document.

☒ Copy of the International Search Report ☒ and copies of the references cited therein.

☐ Other:

RECEIVED  
DEC 28 2000

OBLON, SPIVAK, McCLELLAND  
MAIER & NEUSTADT, P.C.

RECEIVED IN FOREIGN FILING  
DATE: 12/28/00  
TIME: \_\_\_\_\_

COPY

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed

Docket No. 199202US2X PCT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: HIDEKI KINUGAWA ET AL

SERIAL NO: 09/700,729

GAU: 3671

FILED: NOVEMBER 30, 2000

EXAMINER: PEZZUTO, R.

FOR: SHOVEL

INFORMATION DISCLOSURE/RELATED CASE STATEMENT UNDER 37 CFR 1.97

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

SIR:

Applicant(s) wish to disclose the following information.

REFERENCES

- ☒ The applicant(s) wish to make of record the references cited in the European Search Report and listed on the attached form PTO-1449. Copies of the listed references are attached, where required, as are either statements of relevancy or any readily available English translations of pertinent portions of any non-English language references.
- ☒ A check is attached in the amount required under 37 CFR §1.17(p).

RELATED CASES

- ☐ Attached is a list of applicant's pending application(s) or issued patent(s) which may be related to the present application. A copy of the patent(s), together with a copy of the claims and drawings of the pending application(s) is attached along with PTO 1449.
- ☐ A check is attached in the amount required under 37 CFR §1.17(p).

CERTIFICATION

- ☒ Each item of information contained in this information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement.
- ☐ No item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to the knowledge of the undersigned, having made reasonable inquiry, was known to any individual designated in 37 CFR §1.56(c) more than three months prior to the filing of this statement.

DEPOSIT ACCOUNT

- ☒ Please charge any additional fees for the papers being filed herewith and for which no check is enclosed herewith, or credit any overpayment to deposit account number 15-0030. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT P.C.

**COPY**

Norman F. Oblon

Registration No. 24,618

Robert T. Pous

Registration No. 29,099



**22850**

Tel. (703) 413-3000  
Fax. (703) 413-2220  
(OSMMN 10/98)

TBK

TIEDTKE - BÜHLING - KINNE & PARTNER (GbR)



TBK-Patent POB 20 19 18 80019 München

KOBE STEEL, LTD.  
Intellectual Property Department  
5-5, Takatsukadai, 1-chome  
Nishi-ku, Kobe, Hyogo 651-2271  
JAPAN

Attn.: Mr. Maromu Aoki  
General Manager  
Intellectual Property Dept.

Patentanwälte

Dipl.-Ing. Reinhard Kinne  
Dipl.-Ing. Hans-Bernd Pellmann  
Dipl.-Ing. Klaus Grams  
Dipl.-Ing. Aurel Vollnhals  
Dipl.-Ing. Thomas J.A. Leson  
Dipl.-Ing. Dr. Georgi Chivarov  
Dipl.-Ing. Matthias Grill  
Dipl.-Ing. Alexander Kühn  
Dipl.-Ing. Rainer Böckelen  
Dipl.-Ing. Stefan Klingele  
Dipl.-Chem. Stefan Bühling  
Dipl.-Ing. Ronald Roth  
Dipl.-Ing. Jürgen Faller

June 12, 2002

Your ref.: FPC007-003      Our ref.: EP 28546  
European Patent Application No.: 00 913 010.5  
Kobelco Construction Machinery Co., Ltd.

Dear Mr. Aoki,

Enclosed please find copies of the following documents:

- ☐ European Search Report
- ☐ Additional European Search Report
- ☒ Supplementary European Search Report
- ☐ Final European Search Report
- ☐ Declaration (which under Rule 45 EPC shall be considered as the European Search Report)
- ☒ References cited in the European Search Report (1 sets). In order to save costs the cited references have not been studied yet
- ☐ Modified abstract

We hope to have been of service to you and enclose our invoice for services rendered.

Very truly yours,

COPY

Thomas J.A. Leson  
Patentanwalt  
TBK-Patent



P.B.5818 - Patentaan 2  
2280 HV Rijswijk (ZH)  
☎ +31 70 340 2040  
TX 31651 epo nl  
FAX +31 70 340 3016

Europäisches  
Patentamt

Zweigstelle  
in Den Haag  
Recherchen-  
abteilung

European  
Patent Office

Branch at  
The Hague  
Search  
division

Office européen  
des brevets

Département à  
La Haye  
Division de la  
recherche

Leson, Thomas Johannes Alois, Dipl.-Ing.  
Patentanwälte  
Tiedtke-Bühling-Kinne & Partner,  
Bavariaring 4  
80336 München  
ALLEMAGNE

RECEIVED  
EINGEGANGEN

- 6. Juni 2002

TBK - PATENT

Datum/Date

06.06.02

Zeichen/Ref./Réf. <b>EP 28546</b>	Anmeldung Nr./Application No./Demande n°/Patent Nr./Patent No./Brevet n°. <b>00913010.5-1262-JP0002060</b>
Anmelder/Applicant/Demandeur/Patentinhaber/Propriétaire/Titulaire <b>KOBELCO CONSTRUCTION MACHINERY CO., LTD.</b>	

## COMMUNICATION

The European Patent Office herewith transmits as an enclosure the European search report for the above-mentioned European patent application.

If applicable, copies of the documents cited in the European search report are attached.

☒ Additional set(s) of copies of the documents cited in the European search report is (are) enclosed as well.

COPY

## REFUND OF THE SEARCH FEE

If applicable under Article 10 Rules relating to fees, a separate communication from the Receiving Section on the refund of the search fee will be sent later.





European Patent  
Office

**SUPPLEMENTARY  
EUROPEAN SEARCH REPORT**

Application Number  
**EP 00 91 3010**

DOCUMENTS CONSIDERED TO BE RELEVANT			
Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (Int.Cl.7)
X	<p>PATENT ABSTRACTS OF JAPAN vol. 013, no. 133 (M-809), 4 April 1989 (1989-04-04) &amp; JP 63 300131 A (SHIN CATERPILLAR MITSUBISHI LTD), 7 December 1988 (1988-12-07) * abstract *</p> <p>-----</p>	1,7	<p>E02F9/20 B60K6/02 F15B11/00</p>
			TECHNICAL FIELDS SEARCHED (Int.Cl.7)
			E02F
<p>The supplementary search report has been based on the last set of claims valid and available at the start of the search.</p>			
Place of search <b>THE HAGUE</b>		Date of completion of the search <b>29 May 2002</b>	Examiner <b>Sheppard, B</b>
<p><b>CATEGORY OF CITED DOCUMENTS</b></p> <p>X : particularly relevant if taken alone Y : particularly relevant if combined with another document of the same category A : technological background O : non-written disclosure P : intermediate document</p> <p>T : theory or principle underlying the invention E : earlier patent document, but published on, or after the filing date D : document cited in the application L : document cited for other reasons &amp; : member of the same patent family, corresponding document</p>			

COPY



**ANNEX TO THE EUROPEAN SEARCH REPORT  
ON EUROPEAN PATENT APPLICATION NO.**

**EP 00 91 3010**

This annex lists the patent family members relating to the patent documents cited in the above-mentioned European search report.  
The members are as contained in the European Patent Office EDP file on  
The European Patent Office is in no way liable for these particulars which are merely given for the purpose of information.

**29-05-2002**

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
JP 63300131	A	07-12-1988	NONE
<div>COPY</div>			

## Patent Abstracts of Japan

PUBLICATION NUMBER : 63300131  
PUBLICATION DATE : 07-12-88

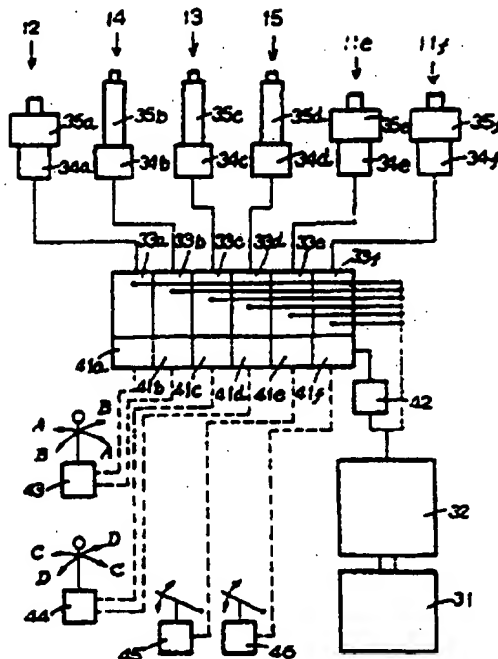
APPLICATION DATE : 30-05-87  
APPLICATION NUMBER : 62137025

APPLICANT : SHIN CATERPILLAR MITSUBISHI LTD;

INVENTOR : NOSAKA HIROSHI;

INT.CL. : E02F 3/43 E02F 9/20

TITLE : ELECTRIC POWER SHOVEL



**ABSTRACT :** PURPOSE: To enhance the operability of an electric power shovel by a method in which the drive power sources of traveling, slewing, and working machine systems are all made up of an electric drive actuator and the electric drive actuator of the working machine system is made up of a motor-driven linear actuator.

**CONSTITUTION:** By the power of a generator 32 driven by an engine 31, motors 34a-34f are driven through power controllers 33a-33f. The motors 34a, 34e, and 34f are integrated with reduction gears 35a, 35e, and 35f to make up electric drive actuators for a slewing system 12 and traveling systems 11e and 11f and the motors 34b, 34c, and 34d are integrated with linear operation systems 35b, 35c, and 35d to make up motor-driven linear actuators. The boom 13, arm 14, and bucket 15 of the working machine system are worked by link motion by converting the rotation of each motor into linear motion.

COPYRIGHT: (C)1988,JPO&Japio

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OSMM&N File No. 199202US2X PCT

Dept: EM

By: NFO:RTP:cd

Serial No. 09/700.729

In the matter of the Application of: HIDEKI KINUGAWA ET AL

For: SHOVEL

The following has been received in the U.S. Patent Office on the date stamped hereon:

- |                                                                             |        |
|-----------------------------------------------------------------------------|--------|
| <input type="checkbox"/> pp. Specification & Claims/Drawings                | Sheets |
| <input type="checkbox"/> Combined Declaration, Petition & Power of Attorney | pages  |
| <input type="checkbox"/> List of Inventor Names and Addresses               |        |
| <input type="checkbox"/> Utility Patent Application                         |        |
| <input type="checkbox"/> Notice of Priority                                 |        |
| <input checked="" type="checkbox"/> Check for \$180.00                      |        |
| <input type="checkbox"/> Fee Transmittal Form                               |        |
| <input type="checkbox"/> Assignment/PTO 1595 pages:                         |        |
| <input type="checkbox"/> Letter to Official Draftsman                       |        |
| <input type="checkbox"/> Letter Requesting Approval of Drawing Changes      |        |
| <input type="checkbox"/> Drawings sheets <input type="checkbox"/> Formal    |        |
| <input type="checkbox"/> Letter (Cover)                                     |        |
| <input type="checkbox"/> Amendment w/mark-up copy                           |        |
| <input checked="" type="checkbox"/> Information Disclosure Statement        |        |
| <input checked="" type="checkbox"/> Cited References (1)                    |        |
| <input checked="" type="checkbox"/> European Search Report                  |        |
| <input type="checkbox"/> Statement of Relevancy                             |        |
| <input type="checkbox"/> IDS/Related/List of Related Cases                  |        |
| <input type="checkbox"/> Restriction Response                               |        |
| <input type="checkbox"/> Declaration Under 37 C.F.R. §1.132                 |        |
| <input type="checkbox"/> Petition for Extension of Time ( )                 |        |
| <input type="checkbox"/> Notice of Appeal                                   |        |
| <input type="checkbox"/> Terminal Disclaimer                                |        |
| <input type="checkbox"/> Request For Reconsideration                        |        |
| <input type="checkbox"/> White Advance Serial Number Card                   |        |
| <input type="checkbox"/> Appeal Brief                                       |        |
| <input type="checkbox"/> Petition Under 37 C.F.R. §1.181(a)(3)              |        |
| <input type="checkbox"/> Draft w/Changes                                    |        |
- RCE  
☐ Priority Doc ( )  
☒ Dep. Acct. Order Form
- PTO-1449
- ☐ Cited Pending Applications  
☐ Election Response



COPY

Due Date: 7-26-02



## PART B - FEE(S) TRANSMITTAL

OK to Enter *RY*

Complete and send this form, together with applicable fee(s), to: Mail Box ISSUE FEE  
Commissioner for Patents  
Washington, D.C. 20231  
Fax (703)746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Not Legally Make-up with any corrected or use Block 1)

22850

7590

07/02/2002

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.



22850

Certificate of Mailing or Transmission  
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above, or being facsimile transmitted to the USPTO, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

NEW ADDRESS LABEL

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/700,729

11/30/2000

Hideki Kinnawa

199202US2PCT

1310

TITLE OF INVENTION: SHOVEL

APPL. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
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nonprovisional

NO

\$1280

\$0

\$1280

10/02/2002

EXAMINER	ART UNIT	CLASS-SUBCLASS
PEZZUTO, ROBERT ERIC	3671	037-347000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1. OBLON, SPIVAK  
2. MCLELLAND, MAIER  
3. & NEUSTADT, P.C.

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

KOBELCO CONSTRUCTION MACHINERY CO., LTD. Hiroshima-shi, JAPAN

Please check the appropriate assignee category or categories (will not be printed on the patent) ☐ individual ☒ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

4b. Payment of Fee(s):

☒ Issue Fee

☐ Publication Fee

☒ Advance Order - # of Copies -10-

☒ A check in the amount of the fee(s) is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☒ The Commissioner is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 15-0030 (enclose an extra copy of this form).

Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature) [Signature] (Date) Oct. 1, 2002

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant, a registered attorney or agent, or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

10/03/2002 HAUWGE 00000030 09700729

01 FC:142  
02 FC:561

1280.00 OP  
36.00 OP

TRANSMIT THIS FORM WITH FEE(S)

PTOL-85 (REV. 04-02) Approved for use through 01/31/2004. OMB 0651-0033

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE